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DYKEMA GOSSETT PLLC
FRANKLIN SQUARE, THIRD FLOOR WEST
1300 I STREET, NW
WASHINGTON DC 20005

In re Application of
TIPSMARK et al.
Application No.: 10/581,530
PCT No.: PCT/DK04/00838
Int. Filing Date: 02 December 2004
Priority Date: 05 December 2003
Attorney Docket No.: 66772-092-7
For: COMMUNICATION DEVICE WITH
STRUCTURAL PART

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DECISION ON
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DECLARATION
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This is a decision on applicants' declaration filed on 05 July 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 02 December 2004, applicant filed international application PCT/DK04/00838 which claimed a priority date of 05 December 2003.

On 2 June 2006, within the thirty month period, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 with, *inter alia*, the requisite basic national fee. On 5 July 2006, applicant filed a Combined Declaration and Power of Attorney executed by the named joint inventors and by **Jens Lundby** (who was not identified in the published International application).

DISCUSSION

A review of the published international application PCT/DK04/00838 reveals that Claus Tipsmark and Klaus L. Svendsen are the named inventors. Applicant did not provide an Notification of the Recording of A Change (Form PCT/IB/306) issued by the International Bureau adding Jens Lundby as a co-inventor under PCT Rule 92*bis*.

The declaration submitted on 05 July 2006 erroneously identifies Jens Lundby as a co-inventor with the named inventors and thus is not in compliance with 37 CFR 1.497(a) and (b). Since there is no indication that Jens Lundby was accepted by the International Bureau under PCT Rule 92*bis* as a co-inventor, it is improper to accept the declaration identifying her as a co-inventor.

CONCLUSION

The declaration executed by Jens Lundby as a joint inventor in the above referenced application is unacceptable and not in compliance with 37 CFR 1.497(a) and (b). A new declaration, in compliance with 37 CFR 1.497(a) and (b), and executed by inventors as named in the published international application is required.

In the alternative, Applicant should forward a copy of the Notification of the Recording of a Change (Form PCT/IB/306) if the correction was accepted by the International Bureau. If a correction under PCT Rule 92*bis* was not requested, a petition under 37 CFR 1.497(d) to add inventor Lundby to this application would be required.

The application will be held in the PCT Legal Office to await applicant's further reply.

Any reconsideration on the merits of the petition under 37 CFR §1.497 must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR §1.497." No petition fee is required. Any further extensions of time available may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: (571)272-3286
Facsimile: (571)273-0459